



European Commission - Statement

EU Member States agree on a plurilateral treaty to terminate bilateral investment treaties

EU Member States reached agreement on a plurilateral treaty for the termination of intra-EU bilateral investment treaties, as confirmed at a meeting of their Ambassadors and Permanent Representatives to the European Union today.

In the Declarations of 15 and 16 January 2019 on the legal consequences of the judgment of the Court of Justice in *Achmea* and on investment protection in the European Union, EU Member States committed to terminate their intra-EU bilateral investment treaties in a coordinated manner by means of a plurilateral treaty, unless bilateral terminations are considered mutually more expedient.

Today's agreement is the result of a year of intense preparatory works carried out by an ad hoc Special Group of Member States' competent authorities. The Commission coordinated the work and sought to facilitate compromise while ensuring that the agreement remains in line with EU and international law.

The Commission welcomes today's endorsement of the plurilateral treaty. It fulfils the commitment to coordinate termination of intra-EU bilateral investment treaties, while taking account of the different interests involved and ensuring legal certainty and compliance with EU law. Today's agreement paves the way for the signature of the plurilateral treaty and the Commission encourages the EU Member States to ensure a smooth and swift ratification process. The signed treaty text will be published on the Commission website. The Commission regrets that a small minority of Member States has not been able to endorse the text. As announced at the beginning of the negotiations, the Commission will consider resuming or initiating infringement procedures against EU Member States that do not terminate their intra-EU bilateral investment treaties.

The Commission acknowledges the willingness of Member States to discuss without undue delay whether any additional steps are necessary to draw all the consequences from the *Achmea* judgment in relation to the intra-EU application of the Energy Charter Treaty. The Commission recognises the views expressed by Member States on this matter in their declarations. In the Commission's view, expressed in its Communication on the protection of intra EU investments of 19th July 2018, it is appropriate to deal with this matter and the Commission stands ready to assist the Member States and the Council in their process.

In light of the Declarations of 15 and 16 January 2019 the Commission will intensify discussions with Member States without undue delay with the aim of better ensuring complete, strong and effective protection of investments within the European Union. Those discussions include the assessment of existing processes and mechanisms of dispute resolution as well as the need and, if the need is ascertained, the means to create new or improve relevant existing tools and mechanisms under EU law.